

109TH CONGRESS
1ST SESSION

S. 1544

To establish the Northern Plains National Heritage Area in the State of North Dakota, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2005

Mr. DORGAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the Northern Plains National Heritage Area in the State of North Dakota, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northern Plains Na-
5 tional Heritage Area Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the scenic breaks of North Dakota’s Mis-
9 souri valley overlook a rich agricultural tradition
10 stretching back 1,000 years;

1 (2) along the length of the remaining free-flow-
2 ing Missouri River in the State of North Dakota,
3 from Huff National Landmark to the south to the
4 Knife River Indian Villages National Historic Site to
5 the north, the area encompasses the ancient home-
6 land of the Mandan and Hidatsa tribes;

7 (3) while farming methods have changed, the
8 agricultural traditions and the scenic, cultural, and
9 historic values of the area remain;

10 (4) the same attributes of geography and cli-
11 mate that attracted the Mandan and Hidatsa to the
12 area later appealed to homesteading farmers and
13 ranchers and the energy industry, all of whom bene-
14 fitted from the natural resources of the land;

15 (5) in addition to agriculture, Mandan-Hidatsa
16 culture depended on fishing and wildlife;

17 (6) the Missouri Valley remains a haven for
18 geese, walleyes, turkeys, and white-tails;

19 (7) endangered species like the piping plover
20 and the least tern, rarities for birdwatchers' lifetime
21 lists, depend on the free-flowing sandbars of the
22 Missouri River;

23 (8) pallid sturgeon swim below the surface of
24 the Missouri River, while once-endangered species
25 like the bald eagle, a symbol of significance to Na-

1 tive Americans and other people in the United
2 States, have made a recovery along the Missouri
3 River;

4 (9) in addition to being the home of the rich
5 and ancient cultures of Indian tribes, the Missouri
6 Valley was part of the expedition commanded by
7 Meriwether Lewis and William Clark, commonly
8 known as “The Corps of Discovery”, which was one
9 of the most remarkable and productive scientific and
10 military exploring expeditions in the history of the
11 United States;

12 (10) President Thomas Jefferson gave Lewis
13 and Clark the mission to “. . . explore the Missouri
14 River and such principal stream of it, as, by its
15 course and communication with the waters of the
16 Pacific ocean, whether the Columbia, Oregon, Colo-
17 rado or any other river may offer the most direct
18 and practicable water communication across this
19 continent for the purposes of commerce . . .”;

20 (11) the Lewis and Clark expedition, in re-
21 sponse to the directive of President Jefferson, great-
22 ly advanced our geographical knowledge of the con-
23 tinent and prepared the way for the extension of the
24 American fur trade with Indian tribes throughout
25 the area;

1 (12) while Lewis and Clark and their compan-
2 ions began the historic journey to explore the un-
3 charted wilderness west of the Mississippi River on
4 May 14, 1804, the expedition spent the first winter
5 at Fort Mandan, North Dakota;

6 (13) the Lewis and Clark expedition signifi-
7 cantly enhanced amicable relations between the
8 United States and the autonomous Indian tribes;

9 (14) the friendship and respect fostered be-
10 tween the Indian tribes and the Lewis and Clark ex-
11 pedition represents the best of diplomacy and rela-
12 tionships between divergent nations and cultures;

13 (15) with the commemoration of the 200th an-
14 niversary of the Lewis and Clark expedition, the
15 preservation of properties nationally significant in
16 the history of westward expansion is an important
17 goal for the future education of the people of the
18 United States;

19 (16) the cultural heritage of the Missouri River
20 area in the State of North Dakota includes the so-
21 cial history and living cultural traditions of several
22 generations;

23 (17) the Department of the Interior is respon-
24 sible for protecting and interpreting the cultural and
25 historic resources of the United States;

1 (18) there are enough significant examples of
2 cultural and historic resources within the State of
3 North Dakota to merit the involvement of the Fed-
4 eral Government in developing programs and
5 projects in cooperation with the Northern Plains
6 Heritage Foundation, the State, and other local and
7 governmental entities to adequately conserve, pro-
8 tect, and interpret the heritage of the area for the
9 educational and recreational benefit of present and
10 future generations, while providing opportunities for
11 education and revitalization;

12 (19) a western expansion, native cultures herit-
13 age area centered in western North Dakota is a suit-
14 able and feasible management option to—

15 (A) increase collaboration;

16 (B) promote heritage tourism; and

17 (C) build on the established partnerships
18 among historic preservation organizations in the
19 State of North Dakota;

20 (20) a congressionally established heritage area
21 and the support of the National Park Service and
22 other Federal agencies is critical to the preservation
23 of the historic resources in western North Dakota;

24 (21) the Northern Plains Heritage Foundation
25 would be an appropriate management entity to over-

1 see the development of the Northern Plains National
2 Heritage Area;

3 (22) the State, local governments, and private
4 sector interests—

5 (A) have embraced the heritage area con-
6 cept; and

7 (B) desire to enter into a partnership with
8 the Federal Government to preserve, protect,
9 and develop the Heritage Area for public ben-
10 efit; and

11 (23) the Heritage Area would complement and
12 enhance the Lewis and Clark-related resources with-
13 in the National Park Service, especially the Knife
14 River Indian Villages National Historical Site.

15 (b) PURPOSE.—The purpose of this Act is to estab-
16 lish the Heritage Area—

17 (1) to encourage and facilitate collaboration
18 among the facilities, sites, organizations, govern-
19 mental entities, and educational institutions within
20 the Heritage Area to—

21 (A) promote heritage tourism; and

22 (B) develop educational and cultural pro-
23 grams for the public;

24 (2) to preserve and interpret for the educational
25 and inspirational benefit of present and future gen-

1 erations the unique and significant contributions to
2 the heritage of the United States of certain historic
3 and cultural land, structures, facilities, and sites
4 within the Heritage Area;

5 (3) to encourage within the Heritage Area a
6 broad range of economic opportunities enhancing the
7 quality of life for present and future generations;

8 (4) to provide a management framework to as-
9 sist the State, political subdivisions of the State,
10 other areas, and private organizations in—

11 (A) preparing and implementing an inte-
12 grated management plan to conserve the Herit-
13 age Area; and

14 (B) developing policies and programs that
15 will preserve, enhance, and interpret the cul-
16 tural, historical, natural, recreation, and scenic
17 resources of the Heritage Area; and

18 (5) to authorize the Secretary to provide finan-
19 cial and technical assistance to the State, political
20 subdivisions of the State, and private organizations
21 in preparing and implementing the management
22 plan.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) BOARD.—The term “Board” means the
2 Board of Directors of the Northern Plains Heritage
3 Foundation.

4 (2) FINANCIAL ASSISTANCE.—The term “finan-
5 cial assistance” means amounts appropriated by
6 Congress and made available to the management en-
7 tity for the purpose of preparing and implementing
8 the management plan.

9 (3) HERITAGE AREA.—The term “Heritage
10 Area” means the Northern Plains National Heritage
11 Area established by section 4(a).

12 (4) MANAGEMENT ENTITY.—The term “man-
13 agement entity” means the management entity for
14 the Heritage Area designated by section 4(d).

15 (5) MANAGEMENT PLAN.—The term “manage-
16 ment plan” means the management plan for the
17 Heritage Area developed under section 6.

18 (6) PARTNER.—The term “partner” means a
19 Federal, State, or local governmental entity, organi-
20 zation, private industry, educational institution, or
21 individual involved in promoting the conservation
22 and preservation of the cultural and natural re-
23 sources of the Heritage Area.

24 (7) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (8) STATE.—The term “State” means the State
2 of North Dakota.

3 (9) TECHNICAL ASSISTANCE.—The term “tech-
4 nical assistance” means any guidance, advice, help,
5 or aid, other than financial assistance, provided by
6 the Secretary.

7 **SEC. 4. NORTHERN PLAINS NATIONAL HERITAGE AREA.**

8 (a) ESTABLISHMENT.—There is established in the
9 State the Northern Plains National Heritage Area.

10 (b) BOUNDARIES.—The Heritage Area shall consist
11 of—

12 (1) a core area consisting of resources in
13 Burleigh, Morton, Oliver, Mercer, and McLean
14 Counties in North Dakota; and

15 (2) any sites, buildings, and districts within the
16 core area recommended for inclusion in the Heritage
17 Area by the management plan.

18 (c) MAP.—A map of the Heritage Area shall be—

19 (1) included in the management plan; and

20 (2) on file in the appropriate offices of the Na-
21 tional Park Service.

22 (d) MANAGEMENT ENTITY.—The management entity
23 for the Heritage Area shall be the Northern Plains Herit-
24 age Foundation, a nonprofit corporation established under
25 the laws of the State.

1 **SEC. 5. AUTHORITIES AND DUTIES OF THE MANAGEMENT**
2 **ENTITY.**

3 (a) **AUTHORITIES.**—For purposes of implementing
4 the management plan, the management entity may use
5 amounts made available under this Act to—

6 (1) make grants to, and enter into cooperative
7 agreements with, the State, political subdivisions of
8 the State, private organizations, or any person;

9 (2) hire and compensate staff; and

10 (3) contract for goods and services.

11 (b) **DUTIES.**—The management entity shall—

12 (1) in accordance with section 6, develop and
13 submit to the Secretary for approval the proposed
14 management plan;

15 (2) give priority to implementing actions cov-
16 ered by the management plan, including assisting
17 units of government and nonprofit organizations in
18 preserving resources within the Heritage Area;

19 (3) in developing and implementing the man-
20 agement plan, consider the interests of diverse gov-
21 ernmental, business, and nonprofit groups within the
22 Heritage Area;

23 (4) maintain a collaboration among the part-
24 ners to—

25 (A) promote heritage tourism; and

1 (B) assist partners in developing edu-
2 cational and cultural programs for the public;

3 (5) encourage economic viability in the Heritage
4 Area that is consistent with the goals of the manage-
5 ment plan;

6 (6) assist units of government and nonprofit or-
7 ganizations in—

8 (A) establishing and maintaining interpre-
9 tive exhibits in the Heritage Area;

10 (B) developing recreational resources in
11 the Heritage Area;

12 (C) increasing public awareness of and ap-
13 preciation for the historical, natural, and archi-
14 tectural resources and sites in the Heritage
15 Area; and

16 (D) restoring historic buildings that relate
17 to the purposes of the Heritage Area;

18 (7) conduct public meetings at least quarterly
19 regarding the implementation of the management
20 plan;

21 (8) submit to the Secretary substantial amend-
22 ments to the management plan for approval; and

23 (9) for any year in which Federal funds have
24 been received under this Act—

1 (A) submit an annual report to the Sec-
2 retary that describes the accomplishments, ex-
3 penses, and income of the management entity;

4 (B) make available to the Secretary for
5 audit all records relating to the expenditure of
6 the funds and any matching funds; and

7 (C) require, with respect to all agreements
8 authorizing expenditure of Federal funds by
9 other organizations, that the organizations re-
10 ceiving the funds make available to the Sec-
11 retary for audit all records concerning the ex-
12 penditure of the funds.

13 (c) USE OF FEDERAL FUNDS.—

14 (1) IN GENERAL.—The management entity
15 shall not use Federal funds made available to the
16 management entity under this Act to acquire real
17 property or an interest in real property.

18 (2) OTHER SOURCES.—Nothing in this Act pre-
19 cludes the management entity from using Federal
20 funds from other sources for authorized purposes.

21 **SEC. 6. MANAGEMENT PLAN.**

22 (a) IN GENERAL.—Not later than 3 years after the
23 date of enactment of this Act, the management entity shall
24 submit to the Secretary for approval a proposed manage-
25 ment plan for the Heritage Area.

1 (b) REQUIREMENTS.—The management plan shall—

2 (1) incorporate an integrated and cooperative
3 approach for the protection, enhancement, and inter-
4 pretation of the natural, cultural, historic, scenic,
5 and recreational resources of the Heritage Area;

6 (2) take into consideration State and local
7 plans;

8 (3) involve residents, public agencies, and pri-
9 vate organizations in the Heritage Area; and

10 (4) include—

11 (A) an inventory of—

12 (i) the resources located the in core
13 area described in section 4(b)(1); and

14 (ii) any other property in the core
15 area that—

16 (I) is related to the themes of the
17 Heritage Area; and

18 (II) should be preserved, re-
19 stored, managed, or maintained be-
20 cause of the significance of the prop-
21 erty;

22 (B) an assessment of cultural landscapes
23 within the Heritage Area;

24 (C) provisions for the protection, interpre-
25 tation, and enjoyment of the resources of the

1 Heritage Area consistent with the purposes of
2 this Act;

3 (D) an interpretation plan for the Heritage
4 Area;

5 (E) a program for the implementation of
6 the management plan by the management enti-
7 ty that includes a description of—

8 (i) actions to facilitate ongoing col-
9 laboration among the partners to—

10 (I) promote heritage tourism;
11 and

12 (II) develop educational and cul-
13 tural programs for the public;

14 (ii) actions to assist partners with
15 planning for restoration and construction;
16 and

17 (iii) specific commitments of the part-
18 ners for the first 5 years of operation;

19 (F) the identification of sources of funding
20 for implementing the management plan; and

21 (G) a description and evaluation of the
22 management entity, including the membership
23 and organizational structure of the manage-
24 ment entity.

1 (c) DEADLINE.—If a proposed management plan is
 2 not submitted to the Secretary by the date that is 3 years
 3 after the date of the enactment of this Act, the manage-
 4 ment entity shall be ineligible to receive additional funding
 5 under this Act until the date on which the Secretary re-
 6 ceives the proposed management plan.

7 (d) APPROVAL OR DISAPPROVAL OF MANAGEMENT
 8 PLAN.—

9 (1) IN GENERAL.—Not later than 90 days after
 10 the date of receipt of the management plan under
 11 subsection (a), the Secretary, in consultation with
 12 the State, shall approve or disapprove the manage-
 13 ment plan.

14 (2) ACTION FOLLOWING DISAPPROVAL.—If the
 15 Secretary disapproves the management plan under
 16 paragraph (1), the Secretary shall—

17 (A) advise the management entity in writ-
 18 ing of the reasons for the disapproval;

19 (B) make recommendations for revisions to
 20 the management plan; and

21 (C) not later than 90 days after the receipt
 22 of any proposed revision of the management
 23 plan from the management entity, approve or
 24 disapprove the proposed revision.

25 (e) AMENDMENTS.—

1 (1) IN GENERAL.—The Secretary shall approve
 2 or disapprove each amendment to the management
 3 plan that the Secretary determines may make a sub-
 4 stantial change to the management plan.

5 (2) USE OF FUNDS.—Funds made available
 6 under this Act shall not be expended by the manage-
 7 ment entity to implement an amendment described
 8 in paragraph (1) until the Secretary approves the
 9 amendment.

10 **SEC. 7. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER**
 11 **FEDERAL AGENCIES.**

12 (a) TECHNICAL AND FINANCIAL ASSISTANCE.—

13 (1) IN GENERAL.—On request of the manage-
 14 ment entity, the Secretary may provide technical as-
 15 sistance, on a reimbursable or nonreimbursable
 16 basis, and financial assistance, to the Heritage Area
 17 for the development and implementation of the man-
 18 agement plan.

19 (2) PRIORITY FOR ASSISTANCE.—In providing
 20 assistance under paragraph (1), the Secretary shall
 21 give priority to actions that assist in—

22 (A) conserving the significant cultural, his-
 23 toric, natural, and scenic resources of the Her-
 24 itage Area; and

1 (B) providing educational, interpretive, and
2 recreational opportunities consistent with the
3 purposes of the Heritage Area.

4 (3) COOPERATIVE AGREEMENTS.—The Sec-
5 retary may enter into cooperative agreements with
6 the management entity and other public or private
7 entities to provide assistance under paragraph (1).

8 (b) OTHER FEDERAL AGENCIES.—Any Federal
9 agency conducting or supporting an activity that directly
10 affects the Heritage Area shall—

11 (1) consult with the Secretary and the manage-
12 ment entity regarding the activity;

13 (2)(A) cooperate with the Secretary and the
14 management entity in carrying out the duties of the
15 Federal agency under this Act; and

16 (B) to the maximum extent practicable, coordi-
17 nate the activity with the carrying out of those du-
18 ties; and

19 (3) to the maximum extent practicable, conduct
20 the activity in a manner that the management entity
21 determines will not have an adverse effect on the
22 Heritage Area.

1 **SEC. 8. REQUIREMENTS FOR INCLUSION OF PRIVATE**
2 **PROPERTY.**

3 (a) NOTIFICATION AND CONSENT OF PROPERTY
4 OWNERS REQUIRED.—No privately owned property shall
5 be preserved, conserved, or promoted by the management
6 plan for the Heritage Area until—

7 (1) the management entity notifies the owner of
8 the private property in writing; and

9 (2) the owner of the private property provides
10 to the management entity written consent for the
11 preservation, conservation, or promotion.

12 (b) LANDOWNER WITHDRAWAL.—Private property
13 included within the boundary of the Heritage Area shall
14 immediately be withdrawn from the Heritage Area if the
15 owner of the property submits a written request to the
16 management entity.

17 **SEC. 9. PRIVATE PROPERTY PROTECTION.**

18 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
19 this Act—

20 (1) requires any private property owner to allow
21 public access (including Federal, State, or local gov-
22 ernment access) to the private property; or

23 (2) modifies any provision of Federal, State, or
24 local law with regard to public access to or use of
25 private property.

1 (b) LIABILITY.—Designation of the Heritage Area
 2 shall not impose any liability on, or to have any effect on
 3 any liability under any other law of, any private property
 4 owner with respect to any persons injured on the private
 5 property.

6 (c) RECOGNITION OF AUTHORITY TO CONTROL
 7 LAND USE.—Nothing in this Act modifies the authority
 8 of the Federal Government or State or local governments
 9 to regulate land use.

10 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
 11 IN HERITAGE AREA.—Nothing in this Act requires the
 12 owner of any private property located within the bound-
 13 aries of the Heritage Area to participate in or be associ-
 14 ated with the Heritage Area.

15 (e) EFFECT OF ESTABLISHMENT.—

16 (1) IN GENERAL.—The boundaries designated
 17 for the Heritage Area represent the area within
 18 which Federal funds made available to carry out this
 19 Act may be expended.

20 (2) REGULATORY AUTHORITY.—The establish-
 21 ment of the Heritage Area and the boundaries of the
 22 Heritage Area do not provide any regulatory author-
 23 ity that would not otherwise exist to govern land use
 24 within the Heritage Area or the viewshed of the

1 Heritage Area by the Secretary, the National Park
2 Service, or the management entity.

3 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There is authorized to be appro-
5 priated to carry out this Act \$10,000,000, of which not
6 more than \$1,000,000 may be appropriated for any fiscal
7 year.

8 (b) COST-SHARING REQUIREMENT.—The Federal
9 share of the cost of any activity carried out using any as-
10 sistance made available under this Act shall be not more
11 than 50 percent.

12 **SEC. 11. TERMINATION OF AUTHORITY.**

13 The authority of the Secretary to provide assistance
14 under this Act terminates on the date that is 15 years
15 after the date on which funds are first made available to
16 carry out this Act.

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